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OFFICE OF PETITIONS

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In re Application of :
Klatt, et al. : DECISION ON PETITION
Application No. 09/479,918 :
Received: January 10, 2000 :
Docket No.: 4944.85635 :

This is a decision on the petition under 37 CFR 1.181, filed August 28, 2006, to withdraw the holding of abandonment.

The petition is hereby **GRANTED**.

This application was held abandoned for failure to timely submit a proper reply to an Office communication that the Notice of Abandonment mailed June 26, 2006 indicates was mailed March 11, 2005.

Petitioners assert non-receipt of an Office communication mailed March 11, 2005.

In the absence of any irregularity in the mailing of the communications, there is a strong presumption that the communications were properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the communications were not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

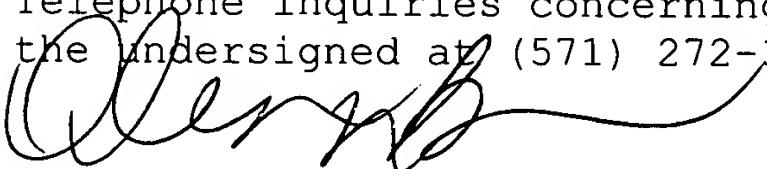
In support of the petition, petitioners have provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from petitioners that a search of the docket record and file jacket indicated that the Office communication was not received.

In view of the evidence presented, the Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to the technical support staff of Group Art Unit 3624 for mailing of a new Office communication, or, if deemed appropriate, processing of the response submitted by applicants on March 11, 2005. The time period for response will be set to run from the date a new Office communication is mailed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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Office of Petitions